

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

THAYER JOSEPH BURTON, JR., )

Petitioner, )

vs. )

BRIAN WILLIAMS, *et al.*, )

Respondents. )

2:16-cv-00521-APG-NJK

**ORDER**

On March 30, 2016, this court denied petitioner's motion to proceed *in forma pauperis* and directed him to pay the filing fee in order to proceed with his petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 3. He has complied with that order and paid the required fee. ECF No. 4. The court has reviewed the petition pursuant to Habeas Rule 4, and the petition shall be served upon the respondents.

In addition, retained counsel has appeared on petitioner's behalf and, on April 25, 2016, filed a motion requesting 90 days to file an amended petition. ECF Nos. 6 and 9. The court shall permit the extension with the caveat that petitioner is responsible for complying with the timeliness requirements imposed by 28 U.S.C. § 2244(d). Based on the information contained in his initial petition (ECF No. 5), it appears as if petitioner has initiated this proceeding within the statutory time limit. The court makes no assurances, however, as to whether any amended claims will be accepted as timely. *See Mayle v. Felix*, 545 U.S. 644, 659 (2005) (holding that an amended claim to relates back for timeliness purposes only if it shares a common "core of operative facts" with a claim contained in the original petition). In this respect, the court notes that several of the claims, as plead in the initial petition (ECF No. 5), fail to meet the pleading standards applicable to federal habeas

1 petitions. *See* Habeas Rules 2(c) (requiring a detailed statement of all grounds for relief and the  
2 facts supporting each ground); *see also* Habeas Rule 4, Advisory Committee Notes, 1976 Adoption  
3 (noting that notice pleading is insufficient, petition must state facts that point to a real possibility of  
4 constitutional error); *Mayle*, 545 U.S. at 655; *O'Bremski v. Maass*, 915 F.2d 418, 420 (9<sup>th</sup> Cir. 1990)  
5 (quoting *Blackledge v. Allison*, 431 U.S. 63, 75 n.7 (1977)). Accordingly, the petitioner is cautioned  
6 to be cognizant of both the statutory time limit and the relation back doctrine in determining when  
7 and how to amend his federal petition.

8 Also, a petition for federal habeas corpus should include all claims for relief of which  
9 petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever  
10 barred from seeking federal habeas relief upon that claim. *See* 28 U.S.C. §2254(b) (successive  
11 petitions). If petitioner is aware of any claim not included in his initial petition, he shall include it in  
12 his amended petition.

13 **IT THEREFORE IS ORDERED** that the Clerk shall ELECTRONICALLY SERVE the  
14 petition for writ of habeas corpus (ECF No. 5) and a copy of this order on the respondents.

15 **IT IS FURTHER ORDERED** that the Clerk of the Court shall add Adam Paul Laxalt,  
16 Attorney General of the State of Nevada, as counsel for respondents.

17 **IT IS FURTHER ORDERED** that respondents shall have **20 days** from the date of entry of  
18 this order to appear in this action, but are not required to respond to the petition until ordered to do  
19 so by the court.

20 **IT IS FURTHER ORDERED** that petitioner's motion for an extension of time within  
21 which to file an amended petition (ECF No. 9) is GRANTED. Petitioner shall file his amended  
22 petition on or before **July 25, 2016**. Upon the filing of the amended petition (or the expiration of  
23 time allotted), the court shall schedule further proceedings in this matter.

24 **IT FURTHER IS ORDERED** that any additional state court record exhibits filed herein by  
25 either petitioner or respondents shall be filed with a separate index of exhibits identifying the  
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1 exhibits by number. The CM/ECF attachments that are filed further shall be identified by the  
2 number or numbers of the exhibits in the attachment. The hard copy of any additional state court  
3 record exhibits shall be forwarded – for this case – to the staff attorneys in **Reno**.

4 Dated this 3<sup>rd</sup> day of May, 2016.

5 

6 UNITED STATES DISTRICT JUDGE